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HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

DIVISION BENCH

CORAM : HON'BLE SHRI S.R. NAYAK, CJ
& HON'BLE SHRI D.R. DESHMUKH, J.

M.A.No.850 of 2006

APPELLANTS

1. Prakash Yadav S/o Kartik Ram, Aged about 52 years

2. Tulsi Bai W/o Prakash Yadav, Aged about 50 years
Both R/o Village Manikchouri, Tahsil & Police Station – Abahpur, Dist : Raipur (C.G.)

VERSUS

RESPONDENTS

1. Kundan Singh
S/o Keshav Singh Thakur,
Aged about 35 years,
R/o Sitlapara – Navapara Gobra,
P.S. Navapara, Tahsil – Abhanpur,
Dist : Raipur (C.G.) (Driver)

2. Tikeshwar Kore W/o Jijordhan Singh Kore, Aged about 25 years, R/o Village Sadar Road Navapara, Police Station – Navapara, Tahsil – Abhanpur, Dist: Raipur (C.G.) (Owner)

3. The Manager,
New India Insurance Company,
Regional Office, Raipur Dist: Raipur (C.G.) (Insurer)

Present: Shri C.R. Sahu, learned for the appellants.

ORAL ORDER
(Passed on 22nd August, 2006)

The following oral order of the Court was passed by **S.R. NAYAK, CJ .**

The appellants are the parents of the deceased and in this appeal they are seeking enhancement of compensation.

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(2) Learned counsel for the appellants would contend that in assessing loss of dependency, the Motor Accident Claims Tribunal (for short "the MACT") has wrongly applied the multiplier of 11. It was next contended by learned counsel for the appellants that the MACT is not justified in taking the income of the deceased at Rs. 3000/- per month for assessing loss of dependency. These were the only two points urged by the learned counsel for the appellants.

(3) We do not find any merit in either of the two contentions. On the date of accident and demise of the deceased, the mother of the deceased was 50 years and father of the deceased was 52 years of age. The average age of the parents would come to 51 years. Therefore, the MACT is justified in applying multiplier 11 for assessing loss of dependency.

(4) We do not find merit in the second contention also. Although it was claimed by the appellants that the deceased was working as a mechanic and earning monthly income of Rs.6000/-, that plea remained as a plea only without substantiating the same by legal evidence. The appellants have not produced either the salary certificate nor they examined the proprietor of the workshop where the deceased was working as a mechanic, in support of the plea. In the absence of any substantive legal evidence, in our considered opinion, the MACT has rightly taken the income of the deceased @ Rs.3000/- per month for assessing loss of dependency. The appeal is devoid of merit and it is accordingly dismissed at the stage of admission itself without notice to the other side

Sd/-
Chief Justice

Sd-/
Dilip Raosaheb Deshmukh
Judge